



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion Nos. 07-05-009 and 07-05-010

The County's Ethics Law restricts post-County employment in two particular ways. Absent a waiver, a former public employee cannot work for a person or business on a "specific matter" for 10 years after the last date the employee significantly participated in that matter as a public employee. § 19A-13(a). Also, for one year after leaving County employment, a former employee must not enter into any employment agreement with any person or business if, during the prior three years, the employee significantly participated in any procurement or other contractual activity with that person or business. § 19A-13(b).

Before participating on a Qualification and Selection Committee (QSC),¹ two employees seek a waiver allowing them to seek post-County employment with any entity responding to the RFP. The Commission cannot respond to such an open-ended request.

The employees correctly note that if they participate on the QSC, either § 19A-13(a) or § 19A-13(b) might limit their ability to seek post-County employment with any person or business that submits a proposal in response to the RFP.² In appropriate cases, the Commission has granted waivers. However, the Commission cannot apply the waiver standard established in § 19A-8(c) in a vacuum. At a minimum, an employee seeking a waiver of the post-employment restrictions set out in the ethics law must identify the person or persons with whom the employee seeks employment. The Commission cannot faithfully administer the ethics law without knowing the specifics of the case before it.

The employees are not without some frame of reference in this matter. The Commission publishes waivers (and advisory opinions) on its web site as a tool for other employees. <http://www.montgomerycountymd.gov/mcgtmpl.asp?url=/Content/ethics/index.asp>. The

¹ A Qualification and Selection Committee is established by a Using Department for the purpose of evaluating responses submitted by offerors in connection with an Request For Proposal or a Request for Expression Of Interest.

² Section 19A-13(a) would only preclude the employee from working on the same specific contract that is the subject of the RFP. See *Advisory Opinion 03-015* (Apr. 8, 2003) & *Advisory Opinion 03-016* (May 15, 2003).

Commission directs the employees' attention to *Waiver 05-01-002* (Feb. 22, 2005), which seems particularly relevant to this situation.

In reaching this decision the Commission has relied upon the facts as presented by the requester.

FOR THE COMMISSION:

A handwritten signature in cursive script, appearing to read "Richard N. Reback".

July 3, 2007

Date

Richard N. Reback, Chair